

considered this erroneous, and held that the plaintiff was entitled to the value of the land plus the value of any buildings existing thereon in 1903 when the plaintiff's right of action accrued.

SPECIAL LEAVE TO APPEAL IN CRIMINAL CASE.

In *Tshingumuzi v. Attorney-General of Natal* (1908) A.C. 248 special leave to appeal to His Majesty in Council in a criminal case in which there was a conflict of evidence, and as to the effect of which there was a difference of opinion in the court below, was refused. The Judicial Committee of the Privy Council being of the opinion that there had been no violation of any principle of natural justice, and that no grave or substantial injustice had been done.

TRIAL BY JURY—EVIDENCE FAIRLY SUBMITTED—SETTING ASIDE VERDICT—NEW TRIAL—SPECIAL LEAVE TO CROSS APPEAL NUNC PRO TUNC.

Toronto Railway Co. v. King (1908) A.C. 260 was an appeal from the Ontario Court of Appeal. The action was brought under Lord Campbell's Act for the recovery of damages for the death of a driver of a wagon killed while endeavouring to cross the track of the Toronto Street Railway, by collision with a motor car of the defendants. The evidence was fairly submitted to the jury and a verdict rendered for the plaintiffs for \$3,000 and \$1,500 respectively. The case was carried to the Court of Appeal and all the members of that Court came to the conclusion that the evidence did not warrant a verdict for the plaintiff, two of the learned judges thought the verdict should be set aside and the action dismissed, but the other three held that there should be a new trial. From this order the defendants appealed claiming that the action should have been dismissed. Pending the appeal the respondents obtained leave to a cross appeal nunc pro tunc also from the order and to restore the judgment at the trial. The Judicial Committee of the Privy Council (Lord Loreburn, L.C., and Lords Macnaghten, Atkinson and Collins, and Sir A. Wilson) were of the opinion that there was no conflict in the evidence which had been fairly submitted to the jury, and that the dissent of the judges of the Court of Appeal from the inferences apparently drawn by the jury from the evidence was not a proper ground for setting aside the verdict, the order of the Court of Appeal was therefore rescinded and the judgment at the trial restored.